IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 2412 of 2007()

ST.2234/2004 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE

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PETITIONER:

DR.M.A.KOYA,
S/O.DR.M.MUHAMMED,
KOYA'S HOSPITAL,
CHERUVANNOOR,
KOZHIKODE.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS:

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1. STATE OF KERALA REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM.

2. PUNJAB NATIONAL BANK,
LINK ROAD BRANCH,
KOZHIKODE REP. BY ITS MANAGER.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2412 Of 2007

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Dated this the 26th day of July, 2007

ORDER

The petitioner is the accused in a prosecution under Sec.138 of the Negotiable Instrument Act. He had appeared before the learned Magistrate. The said complaint was filed as early as in 2004. On 29.6.07, the case stood posted for 313 questioning. On that day the accused did not appear. He was laid up on account of viral fever. A medical certificate was filed before the learned Magistrate. The learned Magistrate evidently considering the pendency of the old matter did not entertain the said application. The application was rejected and a non bailable warrant was issued against the petitioner and notices were issued to the sureties. The petitioner has come to this Court aggrieved by the said order. The petitioner was really ill that is why the application was made. The learned Magistrate should not have dismissed that application and must have given an opportunity to appear on the next date of posting. The petitioner is a doctor. He is willing to appear before the learned Magistrate personally on the next date of posting, that is on 20.8.07. Till that date warrant of arrest may not be executed and the learned Magistrate may be permitted to dispose of the application which is to be

filed by the petitioner on the next date of posting, it is prayed.

2. In these circumstances explained, I am satisfied that appropriate directions can be issued. The petitioner shall appear before the learned Magistrate on 20.08.07. Till then non bailable warrant against the petitioner cannot be executed. If the petitioner applies for bail on such surrender the learned Magistrate must consider the said application and pass appropriate orders on merits, in accordance with law and expeditiously- on the date of surrender itself.

3. This petition is allowed to the above extent.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE